

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

CYRUS ANDREW SULLIVAN,
Plaintiff,

Case No. 3:16-cv-1743-AC

ORDER TO SHOW CAUSE

v.

SCOTT ALLEN BREITENSTEIN,
Defendant.

ACOSTA, Magistrate Judge:

This is the second order to show cause issued in this case. Plaintiff Cyrus Andrew Sullivan (“Sullivan”)’s complaint was filed on August 31, 2016. Pursuant to FED. R. CIV. P. 4(m), “[i]f a defendant is not served within 90 days after the complaint is filed, the court – on motion or on its own after notice to the plaintiff – must dismiss the action without prejudice against that defendant

or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.”


Sullivan’s first attempt at serving the defendant was unsuccessful. (ECF No. 7.) The court then ordered Sullivan to show cause why this case should not be dismissed for lack of service. (ECF No. 12.) Sullivan filed a document detailing his attempts at service, and requesting an additional time to serve defendant at a different address. (ECF No. 15.) The court allowed additional time to attempt service at the new address. (ECF No. 17.) Sullivan’s second attempt at service was also returned unexecuted on February 9, 2017 (ECF No. 18.) Review of the file in this case reveals no further attempts to serve the defendant. Accordingly,

IT IS ORDERED, pursuant to LR 41.2, that plaintiff shall appear on Monday, March 27, 2017, at 10:00 a.m., in Courtroom 11B, to show cause why this case should not be dismissed for lack of service.

IT IS FURTHER ORDERED that plaintiff shall, not less than seven (7) days prior to the noticed hearing date, file a written statement setting forth the status of the action and whether good cause exists to dismiss for lack of service.

Plaintiff is advised that failure to show good cause will result in the dismissal of this case without prejudice.

DATED this 10th day of March, 2017.



JOHN V. ACOSTA
United States Magistrate Judge